

**§ 457.609 Process and calculation of State allotments for a fiscal year after FY 2008.**

(a) *General.* For each of the 50 States and the District of Columbia and for each Commonwealth and Territory with an approved State child health plan, the State allotments for FY 2009 through FY 2015 are determined by CMS as described in paragraphs (b) through (g) of this section. Unless otherwise indicated in this section, the reference to “State” refers to the 50 States and the District of Columbia and the Commonwealths and Territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

(b) *Amounts available for allotment.* The total amounts available for allotment for each fiscal year are as follows:

- (1) FY 2009: \$10,562,000,000.
- (2) FY 2010: \$12,520,000,000.
- (3) FY 2011: \$13,459,000,000.
- (4) FY 2012: \$14,982,000,000.
- (5) FY 2013: \$17,406,000,000.
- (6) FY 2014: \$19,147,000,000.

(7) FY 2015, for the period beginning October 1, 2014 and ending March 31, 2015, the following amounts are available for allotment:

- (i) \$2,850,000,000.
- (ii) 15,361,000,000.

(8) FY 2015, for the period beginning April 1, 2013 and ending on September 30, 2013, \$2,850,000,000.

(c) *Determination of a State allotment for FY 2009.*

(1) *For the 50 States and the District of Columbia.* From the amount in paragraph (b)(1) of this section as appropriated for the fiscal year under section 2104(a) of the Act, subject to paragraph (e) related to proration, and paragraph (c)(3) of this section relating to coordination of funding, the allotment for FY 2009 is equal to 110 percent of the highest of the following amounts for each State and the District of Columbia:

(i) The total Federal payments to the State under title XXI of the Act for FY 2008 as reported by the State and certified to the Secretary through the November 2008 submission of the quarterly expenditure reports, Forms CMS–21 (OMB # 0938–0731) and CMS–64 (OMB # 0938–0067), multiplied by the allot-

ment increase factor determined under paragraph (f) of this section.

(ii) The amount allotted to the State for FY 2008, multiplied by the allotment increase factor determined under paragraph (f) of this section;

(iii) The projected total Federal payments to the State under title XXI of the Act for FY 2009, subject to paragraph (c)(1)(iv) of this section, as determined based on the February 2009 projections certified by the State to CMS by no later than March 31, 2009.

(iv) In the case of a State described in section 2105(g) of the Act and electing the option under paragraph (4) of such section, for purposes of the projections described in paragraph (c)(1)(iii) of this section, such projections would include an amount equal to the difference between the following amounts:

(A) the amount of Federal payments for the expenditures described in section 2105(g)(4)(B) of the Act made after February 4, 2009 that would have been paid to the State if claimed at the enhanced Federal medical assistance percentage determined under section 2105(b) of the Act.

(B) the amount of Federal payments for the expenditures described in section 2105(g)(4)(B) of the Act made after February 4, 2009 that would have been paid to the State if claimed at the Federal medical assistance percentage defined in section 1905(b) of the Act; during the recession adjustment period described in section 5001(h) of the American Recovery and Reinvestment Act of 2009 (ARRA), as amended the Federal medical assistance percentage is as determined for the State under section 5001 of ARRA.

(2) *For the Commonwealths or Territories.*

(i) From the amount in paragraph (b)(1) of this section, as appropriated for the FY 2009 under section 2104(a) of the Act, subject to paragraph (e) of this section related to proration, and paragraph (c)(3) of this section relating to coordination of funding, an amount equal to the highest amount of Federal payments made to the Commonwealth or Territory under title XXI of the Social Security Act for any fiscal year occurring during the period for FY 1999 through FY 2008, multiplied by the allotment increase factor determined

under paragraph (f) of this section, plus the additional amount for the fiscal year specified in paragraph (c)(2)(ii) of this section.

(ii) *Additional Amounts for FY 2009.* From the amount appropriated for the fiscal year under section 2104(c)(4)(B) of the Act, the additional amount for each Commonwealth or Territory is equal to \$40,000,000 multiplied by the following percentage as specified in section 2104(c)(2) of the Act:

(A) For Puerto Rico, 91.6 percent.

(B) For Guam, 3.5 percent.

(C) For the Virgin Islands, 2.6 percent.

(D) For American Samoa, 1.2 percent.

(E) For the Northern Mariana Islands, 1.1 percent.

(3) *Coordination of CHIP Funding for FY 2009.* The amount of the CHIP allotment for FY 2009 available for payment for a States' expenditures may be reduced by the amounts appropriated and obligated before April 1, 2009 for States' FY 2009 allotments, FY 2006 allotments redistributed to the State in FY 2009 determined under section 2104(k) of the Act, and the amounts of additional FY 2009 shortfall allotments determined under section 2104(l) of the Act.

(d) *Determination of a State allotment for FY 2010 through FY 2015.*

(1) *General.* Subject to the provisions of paragraph (e) of this section relating to proration and paragraph (g) of the section relating to increases in a fiscal year allotment for approved program expansions, the State allotments for FY 2010 through FY 2015 are determined as follows.

(2) *Determination of a State Allotment for FY 2010.* (i) For the 50 States and the District of Columbia, and for the Commonwealths and Territories subject to paragraph (d)(2)(ii) of this section, the State allotment for FY 2010 is equal to the product of the following:

(A) The sum of:

(1) The State Allotment for FY 2009, as determined under paragraph (c) of the section.

(2) The amount of any Federal payments made as redistributions of unexpended FY 2006 allotments under section 2104(k) of the Act.

(3) The amount of any Federal payments made as additional FY 2009 al-

lotments under section 2104(l) of the Act.

(4) The amount of any Federal payments made as contingency fund payments for FY 2009 under section 2104(n) of the Act.

(B) The State allotment increase factor for FY 2010 as determined under paragraph (f) of the section.

(ii) In determining the amount of the FY 2010 allotment for each Commonwealth and Territory, for purposes of determining the amount of the FY 2009 allotment under paragraph (d)(2)(i)(A)(1) of this section, the amount of such FY 2009 allotment will not include the additional amount determined under paragraph (c)(2)(ii).

(3) *Determination of a State Allotment for FY 2011.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2011 is equal to the product of:

(i) The amount of Federal payments attributable and countable toward the available State allotments in FY 2010, including:

(A) Any amount redistributed to the State in FY 2010, and

(B) Any Federal payments made as contingency fund payments for FY 2010 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2011 as determined under paragraph (f) of the section.

(4) *Determination of a State Allotment for FY 2012.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2012 is equal to the product of:

(i) The sum of:

(A) The State Allotment for FY 2011, as determined under paragraph (d)(3) of this section.

(B) The amount of any Federal payments made as contingency fund payments for FY 2011 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2012 as determined under paragraph (f) of this section.

(5) *Determination of a State Allotment for FY 2013.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2013 is equal to the product of:

(i) The amount of Federal payments attributable and countable toward the available State allotments in FY 2012, including:

(A) Any amount redistributed to the State in FY 2012, and

(B) Any Federal payments made as contingency fund payments for FY 2012 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2013 as determined under paragraph (f) of the section.

(6) *Determination of a State Allotment for FY 2014.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2014 is equal to the product of:

(i) The sum of:

(A) The State Allotment for FY 2013, as determined under paragraph (d)(5) of this section.

(B) The amount of any Federal payments made as contingency fund payments for FY 2013 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2014 as determined under paragraph (f) of this section.

(7) *Determination of a State Allotment for FY 2015.*

(i) *General.* There are two State allotments for FY 2015; one for the period beginning October 1, 2014 and ending March 31, 2015 and the second beginning April 1, 2015 and ending September 30, 2015. These State allotments are determined for each of the 50 States and the District of Columbia, and the Commonwealths and Territories.

(ii) The State allotment for FY 2015 for the period October 1, 2014 and ending March 31, 2015 is determined as the product of the following:

(A) The first half ratio determined as the amount in paragraph (d)(7)(ii)(A)(1) of this section divided by the amount in paragraph (d)(7)(ii)(A)(2) of this section as follows:

(1) \$18,211,000,000 (calculated as the sum of the amount in paragraph (b)(7)(i) of this section, \$2,850,000,000 (appropriated in section 2104(a)(18)(A) of the Act) and the amount in paragraph (b)(7)(ii) of this section, \$15,361,000,000 (appropriated in section 108 of Pub. L. 111–3, as amended by section 10203 of Pub. L. 111–148)).

(2) \$21,061,000,000, determined as the sum of the amount determined in paragraph (1) of this section, \$18,211,000,000, and \$2,850,000,000, the amount in paragraph (b)(8) of this section, as appropriated in section 2104(a)(18)(B) of the Act, as amended by section 10203 Of Public Law 111–148.

(B) The product of:

(1) The amount of Federal payments attributable and countable toward the total amount of available State allotments in FY 2014, to include:

(i) Any amount redistributed to the State in FY 2014; and

(ii) Any Federal payments made as contingency fund payments for FY 2014 under section 2104(n) of the Act.

(2) The State allotment increase factor for FY 2015 as determined under paragraph (f) of this section.

(iii) The State allotment for FY 2015 for the period April 1, 2015 and ending September 30, 2015 is determined as the product of the following:

(A) \$2,850,000,000 the amount in paragraph (b)(8) of this section, as appropriated in section 2104(a)(18)(B) of the Act; and

(B) The ratio determined as the amount in paragraph (d)(7)(iii)(B)(1) of this section divided by the amount in paragraph (d)(7)(iii)(B)(2) of this section:

(1) The amount of the State allotment determined in paragraph (d)(7)(ii) of this section.

(2) The total of all the State allotments determined in paragraph (d)(7)(ii) of this section.

(e) *Proration.*

(1) If for a fiscal year the sum of the State allotments for the 50 States and the District of Columbia, and the State allotments for the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section), exceeds the total amount available for allotment for the fiscal year in paragraph (b) of this section, the amount of the allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of

this section) will be reduced on a proportional basis as indicated in paragraph (e)(2) of this section.

(2) The amount of the allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined in paragraph (c)(2)(ii) of this section) is equal to the product of:

(i) The percentage determined by dividing the amount in paragraph (e)(2)(i)(A) by the amount in paragraph (e)(2)(i)(B) of this section.

(A) The amount of the State allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section).

(B) The sum of the amounts for each of the 50 States and the District of Columbia, and the Commonwealths and Territories in paragraph (e)(2)(i) of this section.

(ii) The total amount available for allotment for the fiscal year under paragraph (b) of this section.

(f) *Allotment increase factor.* The allotment increase factor for a fiscal year is equal to the product of the following:

(1) Per capita health care growth factor. The per capita health care growth factor for a fiscal year is equal to 1 plus the percentage increase in the projected per capita amount of the National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by CMS before the beginning of the fiscal year involved.

(2) *Child Population Growth Factor (CPGF).* The CPGF for a fiscal year is equal to 1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by CMS based on the most recent published estimates of the Census Bureau available before the beginning of the fiscal year involved plus 1 percentage point. For purposes of determining the CPGF for FY 2009 for the Commonwealths and Territories only, in applying the pre-

vious sentence, “United States” is substituted for “the State”.

(g) *Increase in State allotment for the 50 States and the District of Columbia for FY 2010 through FY 2015 to account for approved program expansions.* In the case of the 50 States and the District of Columbia, the State allotment for FY 2010 through FY 2015, as determined in accordance with the provisions of this section, may be increased under the following conditions and amounts:

(1) The State has submitted to the Secretary, and has approved by the Secretary a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under title XXI of the Act that becomes effective for a fiscal year (beginning with FY 2010 and ending with FY 2015).

(2) The State has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies:

(i) The additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in paragraph (g)(1) of this section, as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year.

(ii) The extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year.

(3) Subject to paragraph (e) of this section relating to proration, the amount of the allotment of the State or District under this section for such fiscal year shall be increased by the excess amount described in paragraph (g)(2)(i) of this section. A State or District may only obtain an increase under paragraph (g)(2)(ii) of this section for an allotment for FY 2010, FY 2012, or FY 2014.

(h) *CHIP Fiscal Year Allotment Process.* As determined by the Secretary, the CHIP allotments for a fiscal year may be published as Preliminary Allotments or Final Allotments in the FEDERAL REGISTER.

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